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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,195	06/20/2003	Kenneth R. Levey	13842	7477

7590 01/21/2005

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EXAMINER

MITCHELL, KATHERINE W

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/600,195

Applicant(s)

LEVEY ET AL.

Examiner

Katherine W. Mitchell

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1--9, 11--23 is/are pending in the application.
- 4a) Of the above claim(s) 11-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4 pages.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of the species restriction in the reply filed on 10/18/2004 is acknowledged. The traversal is on the ground(s) that the search would not be burdensome. This is found only partially persuasive because the included limitations for the female member encompass search limitations not required for the male fastener. However, examiner does agree that the search for the male fastener would encompass the features of claims 1-9 without serious burden. Therefore, claims 1-9 will all be examined, not just elected claims 1,5,7, and 9.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 11-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/29/2004.

3. Applicant is correct in referring to Fig 6, not Fig 5 as examiner mis-typed.

4. Applicant is reminded that if Claim 1, generic, is found allowable, the restriction requirement as to the encompassed species will be withdrawn. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Information Disclosure Statement

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5. Foreign Ref DE 19848717 on IDS of 10/18/2004 was not in the case and could not be considered. A new IDS and fee is NOT required – only a copy of the patent. Examiner will list the patent on examiner's 892 once the patent is provided. Examiner notes for the record the exceptional job in disclosing relevant prior art.

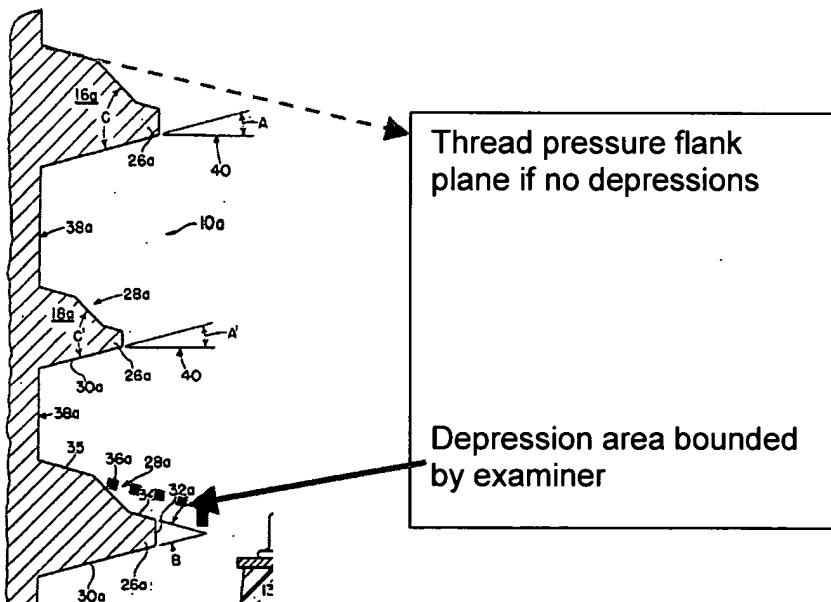
Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1,2,4, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Barth et al USP 4576534.



Re claim 1: Barth teaches a threaded fastener comprising:

- A shank with head and leading ends (Fig 1)

- A head at said head end
- A thread with an outer edge, a drive flank facing said lead end, and a pressure flank facing said head end, said thread disposed about said shank, and
- A series of depressions formed in said pressure flank. (see marked up Fig 2 below) along at least a portion of a length of said thread

Re claim 2: Fig 1 shows the depressions formed in the pressure flank substantially the length of the thread from lead to head end, with Figs 2- 3 showing a better detail of the depressions.

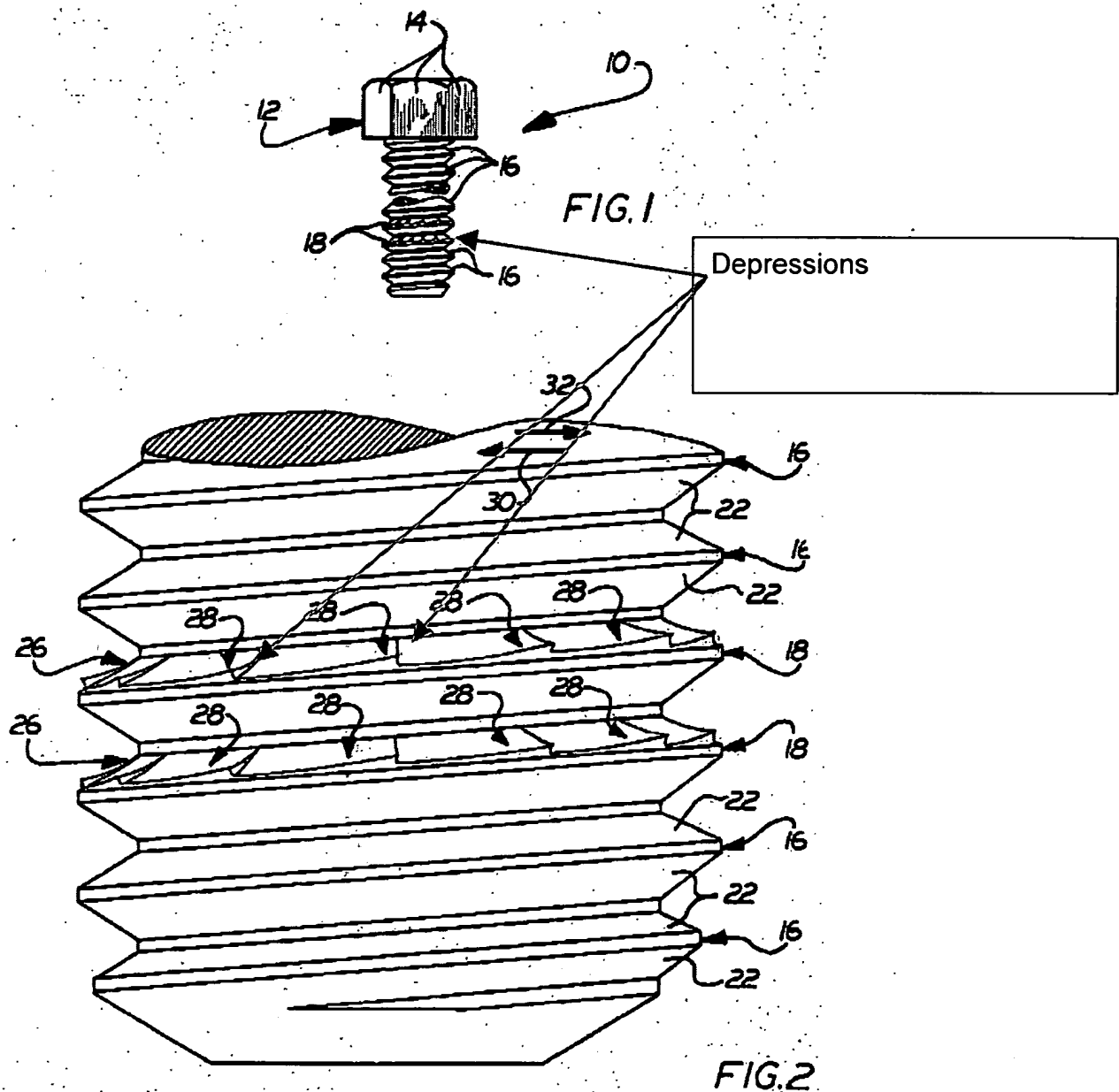
Re claims 4 and 9: Fig 2 shows the depressions extending inwardly along said pressure flank from said outer edge only part of a width of said pressure flank between shank and thread outer edge.

8. Claims 1,5,6, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Capuano USP 4273175.

Re claim 1: Capuano teaches a threaded fastener comprising:

- A shank with head and leading ends (Fig 1)
- A head 14 at said head end
- A thread with an outer edge, a drive flank facing said lead end, and a pressure flank facing said head end, (Fig 1) said thread disposed about said shank, and

- a series of depressions (best seen in Fig 2) formed in said pressure (facing head) flank (see marked up Fig 2 below) along at least a portion of a length of said thread.



Re claim 5: Fig 1 shows the depressions absent on lengths of thread adjacent the head and adjacent the lead end.

Re claims 6 and 8: Fig 2 shows the depressions extending from shank to outer thread edge.

9. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Ollis Jr. et al. USP 3982575, hereafter called Ollis.

Re claim 1: Ollis teaches a threaded fastener comprising:

- A shank with head and leading ends (Fig 1)
- A head 14 at said head end
- A thread with an outer edge, a drive flank facing said lead end, and a pressure flank facing said head end, (Fig 1) said thread disposed about said shank, and
- a series of depressions (best seen in Fig 2 and 4) formed in said pressure (facing head) flank along at least a portion of a length of said thread.

Depressions are the lower portion or root 32 of ramp 30.

Re claim 2: Depressions formed in the pressure flank substantially the length of the thread from lead to head end are described in col 2 lines 48-64, especially lines 60-62 disclose the serrations continuing to the underside of the head 14 from the lowermost thread, with Figs 2 and 4 showing a better detail of the depressions.

Re claim 3: The depressions extending from shank to outer thread edge are best seen in Figs. 2, 3 and 5.

10. Claims 1, 2,4,5, 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Dickie USP 5044853.

Re claim 1: Dickie teaches a threaded fastener comprising:

- A shank with head and leading ends (Fig 1)
- A head 2 at said head end
- A thread with an outer edge, a drive flank facing said lead end 3, and a pressure flank facing said head end, (Fig 1) said thread disposed about said shank, and
- a series of depressions (recesses 6 in indentations, indentations also called valleys of the waves 13) (best seen in Fig 1 and 2) formed in said pressure (facing head) flank along at least a portion of a length of said thread.

Re claim 2: Depressions formed in the pressure flank substantially the length of the thread from lead to head end are described in col 2 lines 21-23, as being located over the entire area of the thread, i.e., even on the tip of the screw.

Re claim 5: Portions of the length of the thread adjacent the head end and adjacent the lead end having no depressions therein are taught in Fig 1 and col 2 lines 5-25. Examiner notes that applicant has claimed "said portion of said length" adjacent said head, referring back to a portion of the thread length, and also claimed "a further portion of said thread" when describing the threads adjacent the lead end having no depressions. Thus "a further portion of said thread" does not have to be a portion of thread length, but can be any portion of the thread adjacent the lead end.

Re claims 4 and 7 and 9: Fig 2 shows the depressions extending inwardly along said

pressure flank from said outer edge only part of a width of said pressure flank between shank and thread outer edge.

Conclusion

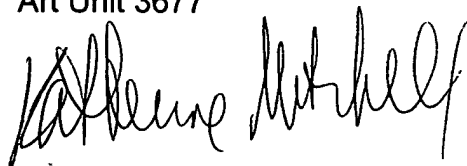
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine W. Mitchell whose telephone number is 703-305-6713. The examiner can normally be reached on Mon - Thurs 10 AM - 8 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Katherine W Mitchell
Examiner
Art Unit 3677



Kwm
1/18/2005